1. We support the repeal of the apartheid-era 1975 Expropriation Act and the enactment of the 2020 Expropriation Bill to replace it.

2. As we submitted in our written submissions:

> Section 25 of the Constitution provides for expropriation of property for the purposes of land reform and provides circumstance in which compensation for that expropriation may be nil.
>
> The 2020 Expropriation Bill does not introduce expropriation without compensation (or expropriation with nil compensation) into our law. It is already provided for in the Constitution.
>
> This bill does what Section 25(1) of the Constitution requires – it provides the law of general application to give effect to the constitutionality of expropriation, including without compensation.
>
> This interpretation of Section 25 of the Constitution has already been confirmed by the Constitutional Court in 2002:
>
> *"…that there are appropriate circumstances where it is permissible for legislation, in the broader public interest, to deprive persons of property without payment of compensation"*
>
> *(First National Bank of SA Ltd vs The Minister of Finance CCT 19/01)*

3. Much of the opposition to this Bill will be based on Clause 12(3) which deals with nil compensation. As indicated this Bill does not introduce "nil compensation" into the law – it is already provided for by the Constitution.

4. Unfortunately, and shamefully, misinformation and fearmongering campaigns have been driven for party political purposes.

5. This misinformation campaign has been extremely divisive - but it has also undermined the legitimacy of the petitions, and comments, that the campaign may have generated. This is a great disservice to the people of South Africa.

DOES THE EXPROPRIATION BILL ALLOW "ANC OFFICIALS TO SEIZE ANYTHING YOU OWN"

NO:

The purpose of the Bill is:

BILL

To provide for the expropriation of property for a public purpose or in the public interest; to provide for certain instances where expropriation with nil compensation may be appropriate in the public interest; and to provide for matters connected therewith.

This is not so remarkably different to the current law that was enacted in 1975:

ACT

To provide for the expropriation of land and other property for public and certain other purposes; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 20 June 1975.)

The 2020 Bill limits the Minister's powers to expropriate:

POWERS OF MINISTER TO EXPROPRIATE 30

Powers of Minister to expropriate

3. (1) Subject to the provisions of Chapter 5, the Minister may expropriate property for a public purpose or in the public interest.

(2) If an organ of state, other than an expropriating authority, satisfies the Minister that it requires particular property for a public purpose or in the public interest, then the 35 Minister must expropriate that property on behalf of that organ of state upon its written request, subject to and in accordance with the provisions of this Act.

(3) The Minister's power to expropriate property in terms of subsections (1) and (2) applies to property which is connected to the provision and management of the accommodation, land and infrastructure needs of an organ of state, in terms of the 40 Minister's mandate.

The Bill also includes these protections which currently do not exist under the 1975 Act:

2. (1) Despite the provisions of any law to the contrary, an expropriating authority may not expropriate property arbitrarily or for a purpose other than a public purpose or in the public interest.

DOES THE BILL EXTEND THE MEANING OF PROPERTY?

NO:

Interestingly, the current law – as enacted in the 1975 Expropriation Act - defines property as including both movable and immovable property – so it is the existing apartheid-era expropriation law that expressly includes your cars!

""property" means both movable and immovable property"

(xii) "property" means both movable and immovable property; (iii)

DOES THE BILL ALLOW ANYTHING TO BE TAKEN IN THE PUBLIC INTEREST?

NO:

Expropriation with nil compensation only applies to land.

Sec 12 (3) reads:

expropriated.

(3) It may be just and equitable for nil compensation to be paid where land is expropriated in the public interest, having regard to all relevant circumstances, including but not limited to—

CAN PUBLIC INTEREST BE ANYTHING?

NO:

(4) For the purposes of this section—

(a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and

WILL THEY TAKE MY LAND AND LEAVE ME WITH A MORTGAGE BOND?

NO:

Property subject to mortgage or deed of sale

18. (1) If property expropriated in terms of this Act was, immediately prior to the date of expropriation, encumbered by a registered mortgage or subject to a deed of sale, the expropriating authority may not pay out any portion of the compensation money except to such person and on such terms as may have been agreed upon between the expropriated owner or expropriated holder and the mortgagee or buyer concerned, as the case may be, after the claimant has notified the expropriating authority of the agreement.

NIL COMPENSATION WOULD OBVIOUSLY NOT BE JUST AND EQUITABLE WHERE THE PROPERY IS ENCUMBERED BY A MORTGAGE BOND

DO I LOSE MY RIGHTS TO OPPOSE AN EXPROPRIATION?

NO:

Current 1975 law requires a disputing party to approach the court. If you are the land owner and you dispute the compensation amount you must rush to court:

> **(5) If an amount has been offered as compensation, the owner concerned shall be deemed to have accepted the compensation offered, if—**
>
> **(*a*) an application for the determination thereof is not made by that owner to an appropriate court contemplated in section 14 (1) within eight months (or such longer period as the Minister may allow) from the date of the offer of compensation concerned; and**

While the 2020 Bill protects the owner and requires the Expropriating Authority to go to court to prove the compensation value:

> **Mediation and determination by court**
>
> **21.** (1) If the expropriating authority and expropriated owner or expropriated holder do not agree on the amount of compensation, they may attempt to settle the dispute by mediation, which must be initiated and finalised without undue delay by either party.
>
> (2) If the expropriating authority and disputing party do not settle the dispute by consensus or mediation, either party may, within 180 days of the date of the notice of expropriation, institute proceedings in a competent court for the court to decide or approve the amount of just and equitable compensation.
>
> (3) The disputing party may, instead of instituting such proceedings himself or herself, within 90 days of the date of the notice of expropriation request the

In conclusion Chairperson, the Expropriation Bill can bring an end to the long debate around effective land reform, fair compensation and expropriation without compensation or with nil compensation.

Those who have solicited opposition to the bill, by petitions, or encouraging objections have done so largely with misinformation – suggesting the government is coming to take your car.

The whipping up of fear is a disservice to the people of South Africa and, with respect, I urge this committee to consider carefully how those who submit petitions obtained those signatures.

Brett Herron
Secretary-General
GOOD